TAN SONG GOU

v.

GOH YA TIAN

COURT OF APPEAL, SINGAPORE
WEE CHONG JIN CJ
T KULASEKARAM J
AP RAJAH J
[CIVIL APPEAL NO. 83 OF 1981]
19 AUGUST 1982

TORT: *Negligence - Collision of vehicle from rear - Police report - Whether part of evidence - Submission of no case - Effect of.*

CIVIL PROSEDURE: *Trial - submission of no case to answer - Effect of.*

On the day in question a taxi SH 4490 owned by the respondent and driven by Tan Ah Lek was involved in an accident. While the taxi was stationary along Jurong Port Road it was hit from rear by a Datsun pickup van GF 6797E, driven by the appellant. It was alleged that the pickup van was stationary just behind the taxi when it was knocked from behind by a motor crane causing the pickup van to collide into the rear of the taxi. As a result the taxi was damaged. The crane owned by Walter Wright (S) Pte. Ltd. was driven by one Abdullah bin Haji Bakar, at the time of collision. All three lodged police reports.

The respondent commenced proceedings against the appellant and two others alleging that the collision which resulted in the damage to the taxi was caused by the negligence of the appellant or in the alternative negligence of the other two. At the trial certified true copies of the police reports were admitted as evidence, but the taxi driver could not be located to give evidence. Defence submitted no case to answer. The trial Magistrate dismissed the claim, holding that "the mere production of the police reports did not prove alleged negligence of the defendants".

On appeal to the High Court, it was held that the three police reports which were admitted in evidence formed part of the evidence. The learned Judge allowed the appeal against the appellant and Walter Wright (S) Pte. Ltd. but dismissed the appeal against United Equipment Services (S) Pte. Ltd. The appellant appealed against this judgment.

Held:

The statement made by the appellant in the police report was an admission that his pickup van collided into the rear of Tan Ah Lek's stationary taxi. By virtue of that admission and in the absence of other evidence the Court is entitled to come to the conclusion that the damage to the taxi was due to the negligent driving of the appellant.

[Appeal dismissed with costs.]

Legislation referred to:

Evidence Act [Sing], ss. 17, 18

JUDGMENT

Goh Ya Tian, the respondent in this appeal, owns a taxi, SH. 4490 which he hired to one Tan Ah Lek. On 21 June 1978 the taxi, driven by Tan Ah Lek, was involved in a motor accident. In his police report of the accident Tan Ah Lek said that the taxi was "hit from the rear by Datsun pickup up GF 6797 E."

The Datsun pickup was driven by Tan Song Gou, the appellant. In his police report Tan Song Gou said that he was following behind taxi 4490 along Jurong Port Road and approaching Jurong Interchange when the taxi stopped. He also stopped and while waiting for the vehicles in front to move on he was knocked from behind by a motor crane No. 0857S causing his pickup to collide into the near rear of the taxi.

The motor crane was owned by Walter Wright (S) Pte. Ltd. and at the time of the collision was driven by one Abdullah bin Haji Bakar. In his police report Abdullah said that as he was approaching Jurong Interchange all vehicles came to a halt. When the vehicles moved forward there was "a car space" in front of him and the pickup overtook his motor crane and swerved left into the empty space in front of his vehicle. At that moment of time the vehicles ahead "came to a halt. Therefore the said motor pickup was stop." As a result his vehicle knocked the rear of the pickup.

The respondent's motor taxi was damaged as a result of the collision with the pickup and he commenced proceedings in the District Court against the appellant as the driver of the pickup and Walter Wright (S) Pte Ltd. and another defendant United Equipment Services (S) Pte. Ltd. The respondent alleged that the collision which resulted in the damage to his taxi was caused by the negligence of the appellant in the driving of the pickup or in the alternative by the negligence of Abdullah as servant or agent of Walter Wright (S) Pte. Ltd. or of United Equipment Services (S) Pte. Ltd. in the driving of the motor crane or alternatively by the negligence of both the appellant and Abdullah in the driving of their respective vehicles.

At the trial certified true copies of the police reports made by Tan Ah Lek (the driver of the respondent's taxi), Abdullah (the driver of the motor crane) and Tan Song Gou (the appellant and the driver of the Datsun pickup), together with other documents, were by agreement admitted in evidence as an agreed bundle of documents.

Goh Ya Tian, the respondent, the plaintiff in the action gave evidence at the trial. He said that since the commencement of the proceedings he had tried to locate Tan Ah Lek to give evidence but was unsuccessful. He called no other witness and relied on the contents of the three police reports. At the close of the plaintiff's case counsel, one acting for Tan Song Gou and the other acting for the other two defendants, submitted no case to answer after the defendants were put to election and had elected not to call evidence.

The trial Magistrate dismissed the claim with costs. He held that the plaintiff had failed to prove negligence on the part of any of the defendants. He held that "the mere production of the police reports did not prove the alleged negligence of the defendants."

The plaintiff, Goh Ya Tian appealed to the High Court. Lai Kew Chai, J who heard the appeal allowed the appeal against Tan Song Gou, the driver of the pickup and Walter Wright (S) Ptd. Ltd. the owner of the motor crane which was driven by Abdullah and dismissed the appeal against United Equipment Services (S) Pte. Ltd.

Tan Song Gou appeals against the judgment of the High Court. Lai Kew Chai, J held that the three police reports, which were in the agreed bundle of documents and admitted in evidence, formed part of the evidence before the Court and that in the absence of other evidence, Goh Ya Tian had proved on a balance of probabilities that both the driver of the pickup and the driver of the motor crane were negligent.

Tan Song Gou in his police report said:

> While approaching near to SBS Interchange our direction of traffic was stopped by a traffic police who was controlling traffic in front. As I said motor taxi SH. 4490 stopped. I also stopped behind it. While waiting there for signal to move this motor crane 857S suddenly knocked into the rear portion of my m/pickup which forced my vehicle forward and collide into the back of the m/taxi.

Tan Song Gou's police report is a documentary statement in which he stated that his pickup collided into the rear of the taxi while the taxi was stationary. It was an admission by Tan Song Gou that his pickup collided into the rear of Tan Ah Lek's stationary taxi (see ss. 17 and 18 of the Evidence Act). It was admitted in evidence by agreement of the parties as one of the documents in the agreed bundle (Exh. AB) at the trial and its contents accordingly need not be proved by calling the person who recorded the statement.

By virtue of that admission Tan Ah Lek had adduced evidence at the trial that Tan Song Gou's pickup collided into his stationary taxi and in the absence of other evidence a Court is entitled to come to the conclusion that the damage to Tan Ah Lek's taxi as a result of the collision was due to the negligent driving of Tan Song Gou. The appeal is dismissed with costs.

We agree with the observations of Lai Kew Chai, J. that the proper practice, if counsel for a defendant wishes to make a submission of no case to answer, is for the Judge to refuse to rule on it unless counsel elects to call no evidence.

Also found at [1982] CLJ 413